APPENDIX A.

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 13430.

LEE ROY GRANT, - - - - - - - *Appellant,*

v.

UNITED STATES OF AMERICA, - - - - - *Appellee.*

Appeal from the District Court of the United States, For the Western District of Kenucky, Owensboro Division.

Decided May 29, 1958.

Before Martin and McAllister, Circuit Judges, and Jones, District Judge.

PER CURIAM. Appellant was convicted by a jury of the offense of knowingly receiving and concealing stolen automobiles, moving in interstate commerce, in violation of *Title* 18 U. S. C. A. *Section* 2313. On appeal, he contends that the trial court erred in permitting evidence to be introduced by the government of another offense claimed to have been committed by him, and not charged against him in the indictment. The evidence in question which was submitted by the government, disclosed that a Cadillac car, not mentioned in the indictment, had been delivered to appellant by Hesson, the man who had stolen it; that appellant had complained to Hesson that he had neglected to alter a motor

number on the frame of the vehicle; that Hesson then took the Cadillac car with him in order to alter the number, but after doing so failed to redeliver it to appellant, and, instead, sold it to another party; that Hesson finally delivered to appellant a stolen Oldsmobile car described in one of the counts of the indictment; and that this Oldsmobile was accepted by appellant as a replacement for the Cadillac.

In *Harper* v. *United States*, 239 F. 2d 945 (C.A. D.C.), the rule here applicable was stated as follows:

> "The general rule is that upon the trial of an accused person the prosecution may not introduce evidence of another offense wholly independent of the one charged. However, there are many well established exceptions to this rule, so numerous that it has been said that it is difficult to determine which is the more extensive, the doctrine or the knowledge exceptions. This court has admitted evidence of other criminal acts when those acts (1) are so blended or connected with the one on trial that proof of one incidentally involves the other, (2) they explain the circumstances of the offense charged, or (3) they tend logically to prove any element of that offense."

The evidence of the other crime of which appellant complains, is clearly within the purview of the exceptions above mentioned, and was properly admitted by the trial court.

With regard to the instructions to the jury, which appellant contends were erroneous, no objection was made by counsel when the instructions were given, and under Rule 30 of the Federal Rules of Criminal Procedure, no error may now be assigned thereon.

Appellant further claims that the jury's verdict finding him guilty on certain counts, was inconsistent with its verdict finding him not guilty on other counts, and consequently the verdict of guilty should be set aside.

Appendix A

If the verdict of the jury be intelligible and based on sufficient evidence to support it, the mere fact that such verdict appears to the court to be illogical or the result of a misconception of fact or mistakes of judgment by the jury, or to be otherwise unreasonable and contrary to fact, does not affect its sufficiency or validity. *Gozner* v. *United States*, 9 F. 2d 603, (C.C.A. 6). When at the same trial, a jury renders inconsistent verdicts of acquittal and conviction, the inconsistency is immaterial and the conviction will stand. *United States* v. *Coplon*, 185 F. 2d 629.

The judgment of the District Court is affirmed.

APPENDIX B.

Federal statutes involved as passed by Congress:

18 U. S. C. Section 2313. Sale or receipt of stolen vehicles—

> Whoever receives, conceals, stores, barters, sells, or disposes of any motor vehicle or aircraft, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than $5,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 806.

Constitution of the United States, Fifth Amendment:

> No person shall be deprived of life, liberty or property without due process of law.

28 U. S. C., Section 1254.

> (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

28 U. S. C., Section 1291.

> The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court.

Section 269, Judicial Code, as amended by 28 U. S. C., Section 391.

> All United States courts shall have power to grant new trials, in cases where there has been a trial by

jury, for reasons for which new trials have usually been granted in the courts of law. On the hearing of any appeal, certiorari or motion for a new trial, in any case, civil or criminal, the court shall give judgment after an examination of the entire record before the court, without regard to technical errors, effects, or exceptions which do not affect the substantial rights of the parties.

APPENDIX C.

In the
DISTRICT COURT OF THE UNITED STATES
For the Western District of Kentucky
At Owensboro

No. _____.
(18 U. S. C., Sec. 2313)

United States of America,

v.

Lee Roy Grant.

INDICTMENT.

The Grand Jury charges:

FIRST COUNT.

On or about and between August 2, 1954, and November 23, 1954, in the Western District of Kentucky, Lee Roy Grant received and concealed a stolen motor vehicle, to-wit, a 1954 Oldsmobile Sedan, Motor No. V99898, Serial No. 548A5782, which was moving as interstate commerce, that is, in commerce from Tampa, State of Florida, to Madisonville, State of Kentucky, and he then knew the motor vehicle to have been stolen.

The Grand Jury further charges:

SECOND COUNT.

On or about the 26th day of June, 1955, in the Western District of Kentucky, Lee Roy Grant received and con-

cealed a stolen motor vehicle, to-wit, a 1955 Chevrolet automobile, Motor No. DMV 19445, Serial No. 558090828, which was moving as interstate commere, that is, in commerce from Vincennes, State of Indiana, to Madisonville, State of Kentucky, and he then knew the motor vehicle to have been stolen.

The Grand Jury further charges:

THIRD COUNT.

On or about and between July 8, 1955, and October 20, 1955, in the Western District of Kentucky, Lee Roy Grant received and concealed a stolen motor vehicle, to-wit, a 1955 Oldsmobile 98 Holiday Coupe, Motor No. V 439255, Serial No. 559M5714, which was moving as interstate commerce, that is, in commerce from Vincennes, State of Indiana, to Madisonville, State of Kentucky, and he then knew the motor vehicle to have been stolen.

The Grand Jury further charges:

FOURTH COUNT.

On or about and between May 19, 1955, and August 16, 1955, in the Western District of Kentucky, Lee Roy Grant received and concealed a stolen motor vehicle, to-wit, a 1955 Chevrolet Sedan, Motor No. 008414F550, Serial No. 55N033258, which was moving as interstate commerce, that is, in commerce from Evansville, State of Indiana, to Madisonville, State of Kentucky, and he then knew the motor vehicle to have been stolen.

The Grand Jury further charges:

FIFTH COUNT.

On or about the 21st day of January, 1954, in the Western District of Kentucky, Lee Roy Grant received and concealed a stolen motor vehicle, to-wit, a 1953 Chevrolet

automobile, Motor No. LAQ 501507, Serial No. 53S197348, which was moving as interstate commerce, that is, in commerce from Evansville, State of Indiana, to Madisonville, State of Kentucky, and he then knew the mtor vehicle to have been stolen.

The Grand Jury further charges:

SIXTH COUNT.

On or about and between March 1, 1954, and March 17, 1954, in the Western District of Kentucky, Lee Roy Grant received and concealed a stolen motor vehicle, to-wit a 1953 Chevrolet Coupe, Motor No. LAA 385420, Serial No. 53S056728, which was moving as interstate commerce from Indianapolis, State of Indiana, to Madisonville, State of Kentucky, and he then knew the motor vehicle to have been stolen.

USCA 18, Sec. 2313

F nm 5000 or I nm 5 y or b

A True Bill

_____

Foreman.

_____

United States Attorney.

APPENDIX D.

UNITED STATES DISTRICT COURT
For the Western District of Kentucky
No. 5466.

United States of America,

v.

Lee Roy Grant.

JUDGMENT AND COMMITMENT.

On this 10th day of September, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Robert Tapp and Rhodes Bratcher.

It is Adjudged that the defendant has been convicted upon his plea of not guilty and verdict of guilty of the offenses of receiving and concealing stolen motor vehicle, which was moving as interstate commerce in violation of T. 18, Sec. 2313, U.S.C.A., as charged in Counts 4, 5 and 6 of the Ind., and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted. Pre-sentence report was furnished by the Probation Office and read by the Court.

Appendix D

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Two years on Count 4
Two years on Count 5
Two years on Count 6

It is Adjudged that said sentence shall run concurrently, each with the other.

It is further ordered that execution of sentence be suspended until September 25, 1957, at 10 A.M., defendant to remain under present terms of his bond for his appearance at Marshal's Office in Louisville.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

The Court recommends commitment to:

(s) Henry L. Brooks,
United States District Judge.

Martin R. Glenn,
Clerk.

A True Copy. Certified this 19th day of September, 1957.
(Signed) (s) Martin R. Glenn. (By) (s) Ethel S. Brown,
Deputy Clerk.

(Seal)